

ARTICLE APPEARED
ON PAGE A-23NEW YORK TIMES
13 AUGUST 1980

Spilling 'A Hill Of Beans'

By Bruce J. Ennis

The controversy over President Carter's discussion of classified information with his brother, Billy, illustrates three overlooked key points: The Government unnecessarily classifies much information that is trivial while claiming falsely that its release would damage national security. Government officials routinely leak classified information favorable to themselves; unnecessary classification and selective leaking increase the likelihood that secrecy laws will be enforced against critics of government but not against friends. The convictions of Ronald Humphrey and David Truong underscore these points.

In 1978, the Administration prosecuted Mr. Humphrey for giving "confidential" documents to Mr. Truong, allegedly an agent of North Vietnam. Mr. Humphrey and Mr. Truong claimed, unsuccessfully, that the documents did not contain information that could harm national security; they were sentenced to 15 years. (In a similar case prosecuted by the Administration, the court ruled that "the propriety" of a classification is irrelevant; the fact of classification "is enough.") Mr. Truong was also convicted of acting as a foreign agent without notifying the Government. Unlike Billy Carter, he was not given an opportunity to avoid prosecution by filing belatedly.

The Senate is investigating the possibility that President Carter gave "confidential" documents to his brother, an agent of Libya. Like Mr. Humphrey and Mr. Truong, Mr. Carter claims that the documents do not contain information that could harm national security. As his press secretary, Jody Powell said, the information in those documents did not amount "to a hill of beans."

Mr. Powell was right. One "confidential" cable reveals that Libyan news-media coverage of Billy's visit was "routine throughout," that 400 Americans attended an embassy reception, and that Billy noted "rapid progress" in Libya, "particularly in the agricultural field." Not much there to shake the nation's security. A second "confidential" cable reveals the embarrassing fact that our chargé d'affaires in Libya had not received a shipment of household effects, but he had enjoyed a "private swim-lunch" with Billy, who was "strictly on the wagon." Another "confidential" cable complains that the "secretarial problem" at the embassy is "genuine," and notes that the Libyans had tried

"confidential" only if unauthorized disclosure would "damage" national security. Under those standards, the Libyan cables should never have been classified.

According to The New York Times, the State Department admits that classi-

fied but "nonsensitive cables were, in practice, routinely released," and according to The Washington Star, the former State Department spokesman Hodding Carter 3d acknowledged that the department "leaks like a sieve," and said that the White House, National Security Council and the Defense Department also leaked information "for self-serving reasons and for policy reasons."

Control of information increases political power. By classifying information unnecessarily, leaking favorable information, and prosecuting those who leak embarrassing information, the Government augments its power and shapes public perception of its actions.

Following our failure to rescue the hostages in Iran, the Government countered questions about the competence of the operation by leaking much unnecessarily classified information to show how thoroughly the attempt had been planned. Some of the leaked information may have been properly classified, and leaking it may have jeopardized lives. We learned, for example, as did Iran, that Central Intelligence Agency agents posing as European businessmen had leased warehouse space as rescue staging areas.

I do not suggest that Mr. Carter should be prosecuted if he gave "classified" documents to Billy. No one should be prosecuted for disseminating improperly classified but harmless information. No do I suggest it was wrong to warn Billy to register or face prosecution.

But there should not be one standard for the politically powerful and another for the politically weak. The same rules that apply to a President and his brother should apply to Mr. Humphrey and Mr. Truong.

Government officials are unnecessarily classifying harmless information, leaking favorable and politically advantageous information, and selectively enforcing the law. Although the contents of the Libyan cables did not amount to "a hill of beans," the incident should prompt us to question the reality of our constitutional commitment to equal justice under the law.

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